

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLERK

2015 NOV 25 PM 1:31

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GEORGE C. COX,

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK DECLARATION

Petitioner,

-against-

Dkt. No.
MISC 15-2333

UNITED STATES OF AMERICA,

Respondent.
-----X

GLEESON, J.

George C. Cox declares, pursuant to 28 U.S.C. section 1746:

(1) I am a pro-se indigent Petitioner, George C. Cox, and submit this Declaration in support of my Petition for Expungement of my conviction under Docket No. 98-Cr-0850 (JG) under the name George C. Cox.

(2) In a recent decision your Honor expunged the thirteen-year old conviction for Jane Doe under docket number 14 – MC-1412 (JG), because of undue hardship in getting and keeping jobs. I write the Court to request consideration of the same relief for me, the Petitioner.

Background of the Offense

3. In 1999, Petitioner was convicted after pleading guilty to embezzling benefit checks for the Veterans Administration. In the scheme, petitioner arranged for direct deposit monies to be funneled into a false account under the name of Albert Rand. The Petitioner appeared before Your Honor and was sentenced to 33 months on one count of Theft of Government Property. The Petitioner served his sentence.

4. In 2001, the Petitioner was resentenced. At resentencing the Petitioner received an additional 12 months after Your Honor removed his Acceptance of Responsibility during his appeal. Therefore the petitioner served a total of 46 months and successfully completed 3 years of supervised release without remands.

Background of the Petitioner

5. Petitioner graduated in 1986 with a Bachelor of Science degree in Business with an emphasis in Commercial Banking and Revolving Credit. Prior to his arrest he worked at the Bank of New York in Mamaroneck, N.Y. as a mortgage underwriter responsible for up to \$500,000 to \$1million lending approval authority. Prior to that, Petitioner held a stable job at Globe Mortgage Company, Valley Stream, N.Y. where he earned most of his practical experience in banking. As a result of this conviction, there remains a permanent record of that punishment, and the reasons for its imposition appears on the Federal Website under 245 F. 3d 126 (2d Cir. 2001).¹

6. The professional consequences of his conviction did not end there. In the years since his conviction the Petitioner has repeatedly tried to obtain employment only to later learn that upon having the employer do the background check of public databases or otherwise conducting a criminal background check he would either not be hired or would be discharged.² This has been going on since his conviction. To put it in perspective, the Petitioner has been denied employment despite his education and qualifications otherwise to contribute to society. Without a change, this pattern will continue without end going forward.

¹ The information comes up on multiple searches, one of which is found here <http://law.justia.com/cases/federal/appellate-courts/F3/245/126/515115/>

² A printout of the Petitioner's private e-mails from American Express Nov 2003, CVS Pharmacy Inc Aug 2006., and American Insurance Group Apr 2009 demonstrating a historical pattern of being barred from employment.

Requested Relief

7. The Petitioner is seeking expungment of his conviction in the liberal application of Part of the 1789 All Writs Act, the writ of audita querela. The reasons for this application mirror those that this Court found compelling for Jane Doe in docket 14-MC-1412. First, the conviction is distant in time and nature from his present life. In the case of the Petitioner, the theft took place over 25 years ago and petitioner was sentenced 16 years ago. Petitioner completed his Good Conduct Release out of prison (September 1, 2002) and supervision 12 years ago. He has walked the straight and narrow path since.

8. Second, the Petitioner has demonstrated that his criminal record has had a dramatic adverse impact on his ability to work. He has been repeatedly barred from employment or terminated from existing employment once background checks on him are completed. Moreover, it has been established that recidivism rates decline as age increases. The Petitioner is currently a middle-aged man of 55 years old. As the Court noted in your decision on Jane Doe, a long period of law-abiding conduct after a conviction lowers the risk of recidivism to the same level as someone who has never committed a crime.

9. Further support for the proposed relief can be drawn from the fact that adverse employment consequences of old convictions are excessive and counter-productive. In the Petitioner's case there is no justification for continuing to impose this disability on him. A sentence of 33 months, (later increased to 46 months) plus 3 years supervised release is not supposed to lead to a lifetime of unemployment.

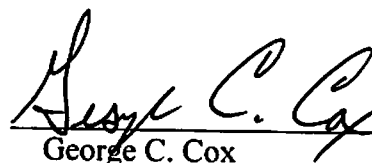
10. Finally, the argument that prospective employers must know about this conviction because it took place in and around money is not valid. The Petitioner's conviction did not arise out of his work as a bank employee. There has never been an issue in the care provided as a fiduciary for the borrowers and bank customers he approved for loans in the private sector. Moreover, nothing in his work as a private banker played in part in his participation in the federal crime.

Conclusion

For the reasons set forth above, it is respectfully requested that this Court enter an Order expunging the Petitioner's conviction.

Dated: New York, New York
November 16, 2015

Respectfully submitted,


George C. Cox

From: Donna M Golden@AMEX

To: "gc cox" <gccox[REDACTED]> on 11/04/2003 02:48 AM GMT

Hi George- I hope all is well with you also. Regrettably, a routine background check is performed on all our candidates who make our short list and there appears to be some irregularities with your profile. Should you have any success in absolving this, why then that will allow us to move forward for your orientation. I'll be happy to supply you with any answers that I can. You can email any question to me or mail them to me @

Donna Golden, Hiring Leader, Credit Operations

7701 Airport Center Dr.

Greensboro, NC 27409

-----Original Message-----

From: Kuhn, Kevin L.

Sent: Saturday, August 05, 2006 9:03 AM

To: 'mwexler@notes.cc.sunysb.edu'; 'computercardio@verizon.net'; 'tcherian@gmail.com'; '333mike@optonline.net'; 'cjutting@gmail.com'; 'gccox[REDACTED]' Pasciuto, Richard W.

Cc: Martorina, Anthony

Subject: CVS Long Island Interviews / Aug 9th

Importance: High

Hi,

Please send a return email to me that you received this email. (save me a lot of time on call backs)

Interviews will be conducted on Wed August 9th. All times are EST. Upon arrival at the Hotel, ask for Kevin Kuhn's / CVS interviews. They will let you know where we are set up. If you cannot make it for whatever reason, please call my cell phone at 513-200-5075 or office 513-523-4348.

Bring with you / Copies of the following:

Resume 2 copies
References
Certifications
Diploma's (etc)
Drivers license
Social Security Card

Location:

Hilton Garden Inn Islip
3485 Veterans Memorial Hwy
Ronkonkoma, NY 11779
631-738-7800
(next to MacArthur Airport/ Islip)

Scheduled interview times

8:00
9:00 Mark Wexler
10:15 Jeffrey Thur
11:30 Thomas Cherian
1:00 Michael Negron
2:15
3:30 Christopher Jutting
4:45 George Cox
6:00 Rich Pasciuto

I look forward to meeting each of you, see you next week

Thank you,

Kevin Kuhn
FTS Zone Manager
VM 17146

RE: CVS Long Island Interviews / Aug 9th

Kuhn, Kevin L. (KLKuhn@cvs.com)

Add to contacts

8/21/06

To: Kuhn, Kevin L., mwexler@notes.cc.sunysb.edu, computercardio@verizon.net, tcherian@gmail.com, 333mike@optonline.net, cjutting@gmail.com, gccox [REDACTED] Pasciuto, Richard W. Cc: Martorina, Anthony

Hi everyone,
Sorry for the delay

We are still in negotiations / checking backgrounds with one of you.... If the candidate passes all requirements then we will move forward by Wed of this week, if not we will be contacting our next choice.

Thanks for your patience and time

Sincerely Kevin Kuhn

Regarding position: CMB-BA-CG (Business Analyst)

Regarding position: CMB-BA-CG (Business Analyst)

AIG (noreply@aig.com)

[Add to contacts](#)

4/02/09



Thank you for your interest in AIG Excess Casualty, a member of American International Group, Inc (AIG), the nation's leading international insurance and financial services organization. Although you have not been selected for this opportunity pursuant to our background screening, please continue to check our website for new opportunities that are of interest to you. Make sure you sign up to have newly-posted career opportunities mailed directly to your Inbox with our auto-job search. We will retain your resume in our active database for 12 months should any appropriate future opportunities become available. Thank you again for your interest in AIG Excess Casualty and we wish you success with your job search.

Regards,

AIG Excess Casualty Human Resources

Please do not reply to this email. If you would like to contact us, you may send an email to aig.hr@aig.com.